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MEMORIAL

OF

CHARLES HENRY BELL,

EXETER, N. H.

PRIVATELY PRINTED.
1894.

CHARLES HENRY BELL.

By Hon. Jeremiah Smith, LL.D.

Charles Henry Bell, the son of John and Persis (Thom) Bell, was born at Chester, New Hampshire, November 18, 1823. He prepared for college at Pembroke Academy, and Phillips Exeter Academy; and was graduated at Dartmouth in 1844. He studied law with Messrs. Bell & Tuck of Exeter, and his cousin, Samuel D. Bell of Manchester. After practicing for a short time in Chester, he became the partner of Nathaniel Wells of Great Falls. In 1854 he removed to Exeter, where he was at first associated with Gilman Marston. In 1856 he was appointed solicitor for Rockingham County, and was reappointed in 1861, serving until 1866. He represented Exeter in the lower branch of the legislature in 1858, 1859, 1860, 1872, and 1873. In 1860 he was elected Speaker of the House. He was a member of the state Senate in 1863 and 1864, and president of the Senate during the latter year. He was a Mason of high rank, and had served the Grand Lodge of New Hampshire as its

highest officer. In March, 1879, Governor Prescott appointed him United States Senator, to serve until an election should be made by the legislature in the following June. In November, 1880, he was elected governor, an office previously filled by his father and his uncle. His gubernatorial term extended from June, 1881, to June, 1883. In 1889 he was president of the Constitutional Convention. He was for a long time a trustee of Phillips Exeter Academy, and latterly the president of the board. He served several years as president of the New Hampshire Historical Society. In 1881 Dartmouth College conferred upon him the degree of Doctor of Laws. In 1868 Mr. Bell gave up active practice at the bar, and thenceforth devoted himself largely to literary and historical pursuits. He published among other works, "Historical Sketch of Phillips Exeter Academy," "Memoir of John Wheelwright," and "History of Exeter." His last labor was performed on "The Bench and Bar of New Hampshire," the greater part of which was printed before his death, the manuscript being then complete save part of the index. He died at Exeter, November 11, 1893.

In 1847 Mr. Bell married Sarah A. Gilman. She died in 1850, and in 1867 he married Mrs. Mary E. Gilman, who survives him.

This bare array of facts and dates can, of course, give no adequate idea of Mr. Bell's value as a public man or of the worth of his literary and historical labors. The task of describing his worth in those aspects of it

has, happily, been undertaken by one who is fully competent to appreciate it. The chief purpose of the present sketch is to briefly delineate Mr. Bell as a lawyer.

Until his appointment as county solicitor in 1856, Mr. Bell had not been accustomed to take the lead in the trial of causes. It was not as common then as now for young lawyers to try their own cases, and he had had for his business associates, both at Great Falls and Exeter, men older and more experienced than himself. But his appointment as solicitor placed him at once in the forefront of battle, and subjected him to tests under which a weak man would have succumbed. He had to undergo comparison with Albert R. Hatch, his immediate predecessor in the office, and with John Sullivan, then attorney-general, who were both hard men to follow. But Mr. Bell stood the test successfully. The business of the State, whenever intrusted to him, was admirably performed. There were peculiar difficulties under which a county solicitor at that day labored. He was not only compelled to try causes against able counsel, but he was also sure, in a large class of cases, to encounter vehement prejudice on the part of many jurors. A considerable part of the state docket consisted of indictments for the violation of the Prohibitory Liquor Law. This statute had been passed only the year before Mr. Bell's appointment. Its enactment had been a political issue, and its repeal was urged by a powerful party, comprising very nearly half the voters of the State. It was inevitable that

each panel should contain some jurors who were bitterly opposed to the law, and some of these men did not, at the outset of a trial, understand that the proper place to manifest their opposition was the ballot box, and not the jury room. Under these circumstances, it is not to be wondered at that, in a neighboring county, there was at that time great difficulty in securing convictions under this law. But the Rockingham County prosecutions were so well handled, that, when Mr. Bell had been in office two years, he was able to say that he had never yet addressed a jury in a liquor case without obtaining a verdict for the State.

From 1856 until his retirement from practice in 1868, Mr. Bell also took a prominent part in the trial of causes on the civil side of the court; and his name frequently appears in the New Hampshire Reports as counsel in cases carried up from the trial term to the law term. In his case, as in that of most lawyers, it is difficult to single out any one cause which deserves to be noticed above all others. Probably the most protracted, and also the most widely known, litigation in which he was engaged was the controversy between Dr. Bassett and the Salisbury Manufacturing Company on the subject of flowage and water rights; a controversy which, in some form or other, figured on the Rockingham docket for about twenty years. One of the ablest oral arguments Mr. Bell ever made before the full bench was in the equity suit between these parties, reported in 47 New Hampshire Reports, 426. His opponent was the veteran leader of the New

Hampshire bar, Daniel M. Christie, who was deeply interested in a controversy in which he had been retained for more than a third of his long professional career. Mr. Bell's argument made an impression on at least one of his hearers which time has not effaced. It is believed that none of the other able counsel, who, at different periods in this long litigation, represented Dr. Bassett, ever made a better presentation of his case or a more complete answer to the other side.

As a jury lawyer Mr. Bell differed widely from most of the men then recognized as leaders of the bar. They were largely men of strength and character, but they had inherited from the preceding generation some undesirable ways. From an early day the demeanor of opposing counsel toward each other had generally been brusque, and sometimes rough. The treatment of witnesses on cross-examination was often very objectionable. In addresses to the jury, prolixity was the order of the day. For a long time there had been no rule of court limiting the length of the closing argument, and the custom was, with one or two notable exceptions, to discuss each case at inordinate length, dwelling on every minute point. In all these respects Mr. Bell had the independence to differ from the usages and traditions of the bar. He never failed in courtesy. An observer might well have applied to him the remark which Richard H. Dana made in reference to the eminent Massachusetts lawyer, Franklin Dexter: "He seems to be a gentleman practicing law, and not a mere lawyer." Mr. Bell treated every one

in the court-room with the same civility that he exhibited towards his equals in social life. His bearing, there as everywhere, was dignified, but without any touch of austerity or superciliousness. He did not knowingly overstate his own case, or misstate that of his adversary. One could not but feel that here was a man whose first conscious desire was not that he might achieve victory, but that he might achieve it worthily; a man who did not adopt the pernicious maxim that the counsel should know no one except his client, but who recognized something higher than his obligation to his client; a man who made it his object to live up to his oath, that he would "do no falsehood nor consent that any be done in the court." Whatever could fairly be done for his side, he would do; but he would go no further. *Pro clientibus sæpe, pro lege semper*, was his motto.

With all Mr. Bell's courtesy and calmness, there was no lack of strength or force. Attorney-General Sullivan, the heir to distinguished talent in two generations, and himself one of the most eloquent and effective advocates of the day, is understood to have said of one of Mr. Bell's early efforts before a jury, that he had never heard a case better argued. Mr. Bell was capable of using sarcasm very effectively in rejoinder, but always within the bounds of the professional amenities. His arguments were generally brief, but clear. He did not waste his own time, or the time of the court. Almost never did he utter a superfluous sentence, and seldom an unnecessary word. "Clear-

ness of statement," it has been well said, "is the great power at the bar." Mr. Bell possessed this faculty in a remarkable degree. His oral arguments had the crystal-like clearness which was so marked a characteristic of the written opinions of his cousin, the late Chief-Justice Samuel D. Bell. It is safe to say that he never sat down without making all his points fully understood. One great charm of Mr. Bell's speeches consisted in his admirable command of language. He always used the right word in the right place. Probably no man of his time at the New Hampshire bar could have better stood the test of a stenographic report. His off-hand sentences uttered in the court-room might well be held up to students as a model of pure and expressive English.

"He did not like a jury trial, and a jury trial did not like him" — was said of an eminent lawyer in another State. The first part of this statement may possibly have been true of Mr. Bell. But the last part certainly was not applicable to him. His experience with juries proves that courtesy and fairness are not insuperable obstacles to success, and that a man of ability and integrity can obtain verdicts without resorting to any small artifices or objectionable methods. He did not fawn upon jurors, or flatter them. He did not introduce irrelevant topics for the sake of exciting sympathy for his client or prejudice against his opponent. But his straightforward method of trying a case was more effective than the flank movements which are sometimes adopted.

Although usually calm and dispassionate, Mr. Bell was capable of feeling righteous indignation, and also of forcibly expressing it. In a congressional convention, in 1862, to which he was a delegate, the committee on credentials reported in favor of seating a certain claimant. Mr. Bell believed that this man had been guilty of dishonorable conduct in the method of his election. He stated the case to the convention in a scathing speech, which could hardly have occupied five minutes. The chairman of the committee, no mean antagonist, and moreover representing on that occasion the faction which succeeded in nominating its congressional candidate, tried to stem the tide. But Mr. Bell's burning words had done their work. The convention not only rejected the favorite of the committee, but went so far as to seat his rival.

The belief in Mr. Bell's fairness was universal. It was generally understood that he did not speak unless he had something to say, and that he expressed no opinion that he did not really entertain. "The character of the man stood behind the efforts of the advocate." Not only in the court-room, but also in the stormiest political gathering, he was sure of being listened to with attention. On one occasion, in a turbulent nominating convention, held in 1864, he was the only man on his side who could obtain a respectful hearing while the excitement was at its height. The last session that Mr. Bell served in the legislature, a measure was pending which aroused strong political feeling. The opponents of the bill put up man after

man to speak against it, and consumed much time in this way. Meanwhile the friends of the measure confided to Mr. Bell alone the task of replying, and themselves sat silent, entertaining a just confidence that he, single handed, would prove a full match for the entire phalanx of the opposition.

No description of Mr. Bell as a lawyer can be complete which omits all mention of his contributions to the social life of the bar. Modern improvements in locomotion are rapidly eliminating the social feature from legal life in New Hampshire. But when he entered the profession, the railroads had not yet produced their full effect; the bar still congregated at the shire town throughout "court week," and comradeship was not entirely a thing of the past. No man was a more genial companion than Mr. Bell. In conversation he had no superior and few equals. He was not only a good talker, but also a good listener. He was not in the habit of monopolizing the conversation, or of relating anecdotes of which he was himself the hero. To listen to a familiar, off-hand talk between two such men as Mr. Bell and his intimate friend, Judge Bartlett, was a pleasure the like of which cannot be enjoyed in New Hampshire to-day. Both were full of knowledge of books, and both had a strong sense of humor, and a wonderful power of expression. The charm of such conversation is more easily felt than described.

It was probably the general opinion of Mr. Bell's friends that, though he was successful at the bar, yet the more appropriate place for him was the bench,

where two near kinsmen had served with distinction. He certainly possessed marked qualifications for that position; a competent knowledge of law, practical experience, tact, sound sense, a dignified presence, and a power of controlling men which led to his attaining the rare distinction of being called upon to preside successively over the House of Representatives, the Senate, and the Constitutional Convention. Had he remained in active practice, he must ere long have been tendered a judgeship. If still at the bar, he could not have been passed over upon the reorganization of the court in 1876. One reason for his non-appointment at an earlier day is to be found in his unwillingness to push his own claims, and his willingness to recognize the claims of others. In 1861 he took an active part in canvassing the lawyers in his section in behalf of the appointment of Judge Bartlett; and, in 1869, he urged the appointment of Judge Foster. He preferred others in honor.

The readers of the admirable biographies in "The Bench and Bar of New Hampshire" must regret that the author's legal life could not be delineated by one who possessed his own rare qualifications for such an undertaking. But no such *alter et idem* is left behind him.

> "The lips are silent which alone could pay
> His worthy tribute."

CHARLES HENRY BELL.

His Character.

By Hon. Mellen Chamberlain, LL.D.

Few persons now living can have known Charles Henry Bell earlier in his youth, or more intimately in the prime of his manhood, than myself; but as I never saw him in the court-house, nor in legislative halls, nor in the exercise of any of his high offices, nor heard him address the people at political gatherings, what I have to say relates chiefly to his more quiet and less eventful private life. And yet all that I have heard of his public life confirms — if confirmation were needed — everything that Judge Smith has said in his admirable sketch.

It is, therefore, by his character as a whole, rather than by any of its prominent traits shown on a public stage and illustrated by interesting anecdotes related by others, that I knew him, and in a few words shall try to make known as it appeared to me. In the course of a long life, I have met many remarkable

men; but I have never been brought into intimate relations with any one who, upon the whole, seemed to me to possess so many varied powers, each of a high order, and all combined in a character so symmetrical, so harmonious, and no less remarkable in youth than in maturity.

When Charles Bell was ten years old and I a little more than twelve, we were students at Pembroke Academy. He came among us without prestige; for, though his father had been governor of the state, I doubt if that was known to his new associates; nor was there anything at that time which gave promise of his commanding personal presence in later years. Least of all was he one of those boys who, by alertness and self-assertion, take the lead among their fellows. The youngest of his class and apparently doing his work with half the labor required of those much older, this excited admiration, but not envy. Friendly to all, he sought no special intimacies that I remember, though everyone regarded him as a personal friend. By intuition rather than by any estimate of his mental and moral qualities, we at once recognized him as no common boy and as a leader. I doubt if anyone could have given the reason for this then; nor do I suppose we could now — for a character so well rounded easily eludes description. The most that can be said, is that we felt its influence then, nor have we forgotten it during the lapse of sixty years.

After a term at Pembroke we separated; he going

to Exeter to complete his studies for admission to college, and I, somewhat later, to Concord with the same purpose. I saw him there once, and I think it must have been when his life of Chief-Justice Richardson was going through the press — a work of which he afterwards spoke disdainfully, though with little reason. It was, indeed, the immature work of a boy of fifteen, but one which gave promise of future excellence in historical writing, since amply redeemed.

We next met at Dartmouth College in 1840, and not long after became room-mates and, of course, intimately acquainted. At that time Mr. Bell did not seem to be in robust health. He had entered college with the class of 1838, but was compelled to postpone his studies for two years. When he returned in 1840, he showed symptoms of an incipient malady fatal to several of his family; nor do I think he was unconscious of this danger, although he never spoke of it. Before he left college, boating, the use of the foils and military drill had developed his form to those fine proportions ever after noticeable.

Though Mr. Bell's natural gifts, with ordinary application, would have easily made him the first scholar of his class in every department, he was not pre-eminent in any. He never made a poor recitation and never a brilliant one. Everything like display or self consciousness was always distasteful to him; but his talents were undeniable and at once recognized by his associates. His preparation for the class-room did not require severe or protracted study, and he occupied

himself meanwhile with music, drawing, and those light exercises which promoted his health.

His swiftness of apprehension was remarkable; and no less remarkable his memory. By intuition he saw the solution of a complicated problem in mathematics, or the translation of a difficult passage in Thucydides; and I doubt if he ever was obliged to go twice to the dictionary for the meaning of the same word, or any form of it recurring in his classics.

Though Mr. Bell's quickness and strength of mind could hardly fail of notice even in a casual conversation, yet I think his early associates, as those who knew him intimately in his maturer years, were less struck by salient points of his intellectual character, than by the symmetrical proportions of the whole, and the harmony between its parts; and to those who did not know him well, the high estimate of those who did might seem to savor of friendship rather than impartial judgment.

I do not think so. Doubtless the great liking which his personal qualities wrought in those who came into his presence predisposed them to a favorable estimate of his intellectual powers; but his personal qualities —those which immediately and without assignable reason attract or repel—were also remarkable and equally defy analysis. He was one of the youngest of the undergraduates and used none of those arts by which popularity is sometimes gained; but no one in the college was more popular. His manner was reserved and his speech quiet; and so were the wit

and humor with which he was richly endowed. Unduly familiar with no one, no one presumed on too great familiarity with him.

He sought no honors within the gift of the students. They came unsought; and in college affairs, generally regulated by the upper classes, his influence while yet in the lower, was second to that of no other. His opinions were frequently sought, but never obtruded; for though often visited he was not often seen in the rooms of other students.

And so this reserved and silent youth, who seldom spoke of himself or his own affairs, who never made protestations of friendship, who never seemed pleased with compliments and rarely made them, was respected and loved by his college-mates, and in after years by the people of his state, who honored and trusted him as few of her sons have been honored and trusted.

The influence he possessed and the affection he inspired were by his character — open, sincere, manly and just,— united with exceptional abilities, harmonious, symmetrical, easily working and ever at command.

After graduation we were separated for more than twenty years with only occasional and brief meetings. This was the period of his professional and political life, of which Judge Smith has written. But for the last twenty-five years, after he had retired from professional and public pursuits, we were often together; yet I was present on no occasion, public or private,

which called forth his rare powers of conversation, which such as witnessed their exercise delight to dwell upon. It was chiefly in the quiet of his own home, though sometimes in mine, or during long walks in the country, and in conversation with no third party present, that we renewed the acquaintance of our earlier days, and I had the amplest opportunities for the study of his character and reconsidering my former estimate of it. The old power and the old charm remained, not easy to describe, but deepened by experience and mellowed by years.

I have spoken of the symmetry of Mr. Bell's intellectual character, and I wish to add a word respecting his sense of art, pictorial and plastic, as well as literary. He had little liking for art expressions of pagan or Christian mythology, or for composite landscapes; but his appreciation was keen and just of what is real, if not too highly raised by imagination; and, therefore, he was more deeply impressed by the great masterpieces of portraiture which he saw in Europe and by simple idyllic landscapes in which the individuality of common trees and the wayside shrubs and flowers are not sacrificed by too generalized treatment.

I allude to this quality of his art sense because it shows itself in his literary work. No one had a greater distaste for sounding phrases, or tropes and metaphors than he. No one wrote with greater directness and simplicity; and few with greater truth and picturesqueness. His literary work, even on the most prosaic of subjects, is vital throughout.

Judge Smith expresses regret, which is shared by Mr. Bell's legal friends, that he seemed to decline a judicial career clearly open to him, in which those of his family connection had gained distinction, and to which he doubtless would have added.

That is a rational regret for the people of New Hampshire. My own personal regret, however, and one shared by many others, is that he did not earlier give attention to historical writing; for what he did, though not large in amount and mainly limited to subjects of local rather than of general interest, seems to me not only the best of its kind, but to evince powers capable of successfully covering wider and more important fields. This certainly is the opinion of those historical students with whom I have conversed on this subject. Few writers have possessed in the same degree an almost intuitive knowledge of the sources of history, or the power of skilfully grouping materials, or of estimating their values, or of perspicuously presenting them; nor can I doubt that had he sooner entered the field of historical investigation and devoted his rare powers to some work which would have called them forth, he would hold a high place among American historians.

The following list includes the principal historical writings and occasional addresses of Mr. Bell:

The Life of William M. Richardson, LL.D., 1839.

An Address at the laying of the corner-stone of the Robinson Female Seminary, Exeter, N. H., 1868.

An Address at the Centennial of Derry, N. H., 1869.

Men and Things of Exeter, N. H., 1871.

Exeter in 1776, 1876.

The Wheelwright Deed, 1876.

John Wheelwright; His Writings and a Memoir, 1876.

An Address in memory of Hon. Ira Perley, before the Alumni Association of Dartmouth College, 1880.

An Oration before the Phi Beta Kappa Society, Dartmouth College, 1881.

Memoir of Daniel Webster, for the Historic Genealogical Society, 1881.

Phillips Exeter Academy; A Historical Sketch, 1883.

A Memoir of Dr. John T. Gilman, privately printed for the family, 1885.

History of Exeter, N. H., 1888.

The Exeter Quarter-Millennial; An Address at Exeter, N. H., June 7, 1888.

An Address before the Bunker Hill Association in Boston, June 17, 1891.

The Bench and Bar of New Hampshire, 1894.

No analysis of these writings can be given here. The most elaborate were, "John Wheelwright," prepared for the Prince Society, 1876; "History of Exeter," in 1888, and "The Bench and Bar of New Hampshire." The first is regarded, and frequently cited by historians, as a model of research and temperate discussion of questions which profoundly disturbed New England more than two hundred and fifty years ago, and have since given much trouble to historical students. The "History of Exeter" is too well known by all who are likely to read this sketch to require description; and "The Bench and Bar," a work

which employed so much of his time in later years, and is so pathetically associated with Mr. Bell's closing hours, is hardly before the public; but it has excited expectations fully realized by those who have seen it when going through the press.

A few words respecting Mr. Bell's delivery of his public addresses. I never heard him in extemporaneous speech before the people, and only three times when he spoke from manuscript: once when he delivered the Exeter Quarter-Millennial address, June 7, 1888; once, when he discussed the Wheelwright deed; and again, in the Old South, Boston, June 17, 1891. On each occasion, in the heat of summer, his address was preceded by long, and necessarily exhausting exercises; but I have seldom been present when the orator so soon gained the attention of his audience and held it to the close; not, indeed, by oratorical flights, or sensational appeals, or interesting anecdotes, but by a vital and picturesque presentation of subjects sometimes dry and seldom of absorbing interest. This was especially the case on the 17th of June, when, in his Bunker Hill oration, he addressed some who had heard Webster and other distinguished orators on like occasions. But Mr. Bell, by his vivid description of the events of June 17th, 1775, presented the services of the New Hampshire troops on that day in a manner not likely to be forgotten by those who heard him.

What Mr. Bell was in his family; the serenity of his temper; his never failing regard for the interest and comfort of others; the affection he manifested for

his wife and children, and the affection he inspired, is known to all who were privileged to see him in his home. But such memories belong only to the nearest and dearest.

November 14, 1893, relatives and friends laid away in the earth all that was mortal of Charles Henry Bell. So serene and beautiful was the day, that we could hardly think it November; so placid was the face of our friend, that we could hardly think him dead. The seasons come and go with days of sunshine and days of storm, but to all that knew him his friendship was unchanging and unclouded. What he did as jurist, statesman and historian have passed into history; what he was as a friend remains an undying remembrance.

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